

Memo

From: Terry Whiteside
Date: July 03, 2007
Re: Transportation Report



UNITED TRANSPORTATION UNION (RAIL LABOR) FORGES AN ALLIANCE WITH RAIL SHIPPERS AND UTU SPEAKS OUT ON RAIL LOSING IN DOMINANCE IN CONGRESS

The **Alliance for Rail Competition** working with the **National Association of Wheat Growers, National Barley Growers Association, American Soybean Association, National Farmers Union, USA Dry Pea & Lentil Council, US Dry Beans Association** and many other organizations together with **CURE, American Chemistry Council, Edison Electrical Institute, American Public Power Association and the National Rural Electric Co-op Association** have expanded their alliance to include the **United Transportation Union** in the press for passage of **S. 953 and H.R. 2125 - Railroad Competition and Service Improvement Act of 2007**.

Frank Wilner, with the **United Transportation Union**, publishes the **"Voice of Transportation Labor"** on the United Transportation Union's website, which is www.utu.org. On July 3, 2007 Frank published an article which Whiteside & Associates believes every rail shipper needs to see and it is reproduced with the author's permission in this *Transportation Report*.

Demons, fiends and hellhounds

Capitol Hill is becoming for railroads much like a storm raining down demons, fiends and hellhounds.

With conservative Republicans no longer in leadership posts to tilt the field for rail-favorable legislative outcomes, railroads are finding themselves adrift in unfamiliar, unfriendly and uncooperative waters.

Last week, House Republican Richard Baker of Louisiana said railroads no longer are as strong politically as they think.

Then, Wall Street's most quoted railroad analyst -- Ed Wolfe of Bear Stearns -- advised investors that a tough UTU-supported rail safety bill likely will be passed into law, and that railroads have so aligned themselves with Republicans that they are not "transitioning to Democrats [now] setting the agenda" in Congress.

The Transportation Research Forum, in conjunction with the nation's largest transportation bar association, has invited the most visible captive-shipper lobbyist, Bob Szabo of Consumers United for Rail Equity, to speak at a July 11 luncheon in Washington, D.C., which will be attended by Capitol Hill and regulatory agency staff and the media.

The heaviest downpour spooked the Association of American Railroads, which was forced by its own blunder to write a letter of apology to Jim Oberstar (D-Minn.), chairman of the House Transportation & Infrastructure Committee, after Oberstar singled out "despicable" actions by railroads on Capitol Hill. Not since Burlington Northern, some 20 years ago, secretly paid a witness to appear before Congress has the rail industry been forced to bow its head and write a public letter of apology.

Oberstar said of the railroads' opposition to the rail safety bill, "They made such extravagant claims about what the safety bill would do: Shutting down the rail business, making them more inefficient, they wouldn't be able to operate, they are going to have to hire more people. The more profit they make the more they are squeezing out of their employees."

Meanwhile, Oberstar has scheduled hearings to create a congressional record of railroad abuses in preparation for moving legislation aimed at

breaking the love-in between railroads and its regulator on pricing and mergers -- the Surface Transportation Board -- which is better known derisively as a wholly owned subsidiary of the railroads.

And over at the Federal Railroad Administration -- whose previous administrators had cozy relationships with rail officials and often went on to take lucrative jobs with the carriers -- the agency is demonstrating previously unseen aggressiveness to force compliance with safety regulations that once were considered by rail officials as merely suggestions.

FRA Administrator Joseph Boardman told *Railway Age* magazine that the strongest reason for the FRA to exist "is to stand in the shoes of those not able to be at the table. Whether they be employees or those who live or work along main-line track, they need a voice" equal to the voice of the carriers.

Indeed, railroads have become much like the New York Yankees, whose drunken-sailor-like spending on talent is producing repetitive heartburn rather than victories. The so-called perfect storm (against labor and captive shippers) that Matt Rose crowed about to Wall Street a few years back is, instead, huffing and puffing and blowing the railroads' house down.

Yes, the Congress that railroads previously thought could do them no harm is turning against them. The president railroads thought would be their ninth-inning closer is suffering the lowest approval ratings in history, and has tumbled so quickly into premature lame-duck status that he may be more of a liability to railroads than a savior. The vice president, who once sat on Union Pacific's board of directors, is seemingly without any credibility on Capitol Hill.

Evidence of the railroads' tumbling fortunes is that just last week, railroads failed in an attempt to block a captive-shipper supported provision in a House energy bill that will require DOT and the Energy Department to probe railroad service levels and rates. Even Republicans failed to come to the railroads' defense in the House Energy Committee.

In a letter to institutional investors, Bear Stearns' Wolfe said the UTU-supported Federal Railroad Safety Improvement Act has a "realistic chance (to pass Congress) as it has already made its way out of committee and we would imagine it is tough for the rails to publicly lobby against a bill aimed at improving rail safety."

Wolfe also noted the UTU's opposition to the railroads' attempt to gain a \$400-million annual investment tax credit (subsidy), as well as the railroads' partnership with captive shippers. He predicted that unless railroads "clean up ongoing negative sentiment with shippers on price and service," the tax subsidy bill has no chance of passage.

Additionally, Wolfe took note of the UTU's pending merger with the Sheet Metal Workers International Association and its likely positive impact on UTU lobbying strength.

UTU International President Paul Thompson recalled the words of Harry Truman: "Rail management can only see straight down the right-of-way as it was laid out in 1890 and all the help is in the same frame of mind. What the rails need is some young blood with imagination." Interestingly, that is precisely what some private equity funds -- such as the Childrens' Investment Fund -- are saying about railroad management.

**H.R. 2125 - RAILROAD COMPETITION AND SERVICE
IMPROVEMENT ACT OF 2007 HAS ANOTHER CO SPONSOR -
REPRESENTATIVE PAUL E GILLMOR FROM OHIO HAS
BECOME THE 45TH CO-SPONSOR FOR THIS BILL
BELOW IS THE FULL LIST IN ORDER OF CO-SPONSOR DATE**

Rep Oberstar, James L. [MN-8] (introduced 5/3/2007)
Rep Baker, Richard H. [LA-6] - 5/3/2007
Rep Berry, Marion [AR-1] - 5/3/2007
Rep Walz, Timothy J. [MN-1] - 5/3/2007
Rep Franks, Trent [AZ-2] - 5/3/2007
Rep Kind, Ron [WI-3] - 5/3/2007
Rep Alexander, Rodney [LA-5] - 5/3/2007
Rep Boustany, Charles W., Jr. [LA-7] - 5/3/2007
Rep Hirono, Mazie K. [HI-2] - 5/3/2007
Rep Simpson, Michael K. [ID-2] - 5/3/2007
Rep Herseth Sandlin, Stephanie [SD] - 5/3/2007
Rep Pomeroy, Earl [ND] - 5/3/2007
Rep Cubin, Barbara [WY] - 5/9/2007
Rep Udall, Mark [CO-2] - 5/9/2007
Rep Melancon, Charlie [LA-3] - 5/9/2007
Rep Renzi, Rick [AZ-1] - 5/9/2007
Rep Grijalva, Raul M. [AZ-7] - 5/9/2007
Rep McCollum, Betty [MN-4] - 5/9/2007
Rep Holden, Tim [PA-17] - 5/9/2007
Rep Baldwin, Tammy [WI-2] - 5/9/2007
Rep Jindal, Bobby [LA-1] - 5/9/2007
Rep Boren, Dan [OK-2] - 5/9/2007

Rep Snyder, Vic [AR-2] - 5/9/2007
Rep Hare, Phil [IL-17] - 5/9/2007
Rep Musgrave, Marilyn N. [CO-4] - 5/9/2007
Rep Ross, Mike [AR-4] - 5/9/2007
Rep Jefferson, William J. [LA-2] - 5/9/2007
Rep Rehberg, Dennis R. [MT] - 5/15/2007
Rep Ramstad, Jim [MN-3] - 5/21/2007
Rep Space, Zachary T. [OH-18] - 5/21/2007
Rep Wamp, Zach [TN-3] - 5/21/2007
Rep McNulty, Michael R. [NY-21] - 6/5/2007
Rep Towns, Edolphus [NY-10] - 6/5/2007
Rep Peterson, Collin C. [MN-7] - 6/5/2007
Rep Obey, David R. [WI-7] - 6/5/2007
Rep Sires, Albio [NJ-13] - 6/6/2007
Rep Kagen, Steve, M.D. [WI-8] - 6/7/2007
Rep Hinojosa, Ruben [TX-15] - 6/7/2007
Rep Miller, Brad [NC-13] - 6/12/2007
Rep Holt, Rush D. [NJ-12] - 6/12/2007
Rep Andrews, Robert E. [NJ-1] - 6/12/2007
Rep Mollohan, Alan B. [WV-1] - 6/13/2007
Rep Paul, Ron [TX-14] - 6/20/2007
Rep Inglis, Bob [SC-4] - 6/20/2007
Rep Gillmor, Paul E. [OH-5] - 6/28/2007